

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

September 23, 2011  
Panel No. ECO-072

No. 11-3533

PRESERVATION PITTSBURGH,  
Appellant

v.

MARY CONTURO, Executive Director, Sports and Exhibition Authority of  
Pittsburgh and Allegheny County; ROB STEPHANY, Executive Director, The  
Urban Redevelopment Authority of Pittsburgh;  
LUKE RAVENSTAHL, Mayor of Pittsburgh; DAN ONORATO, County  
Executive Allegheny County; RAY LAHOOD, Secretary, United States Department of  
Transportation; VICTOR M MENDEZ, Administrator, Federal Highway Administration;  
RENEE SIGEL, Pennsylvania Division Administrator, Federal Highway Administration

(W.D. Pa. No. 2-11-CV-00889)

Present: FUENTES and SMITH, Circuit Judges

1. Emergency Motion by Appellant Preservation Pittsburgh for Injunction pending Appeal.
2. Motion filed by Appellant Preservation Pittsburgh to Expedite Emergency Motion for Injunction pending Appeal.
3. Letter received from Counsel for Appellee, Mary Conturo confirming demolition activities.
4. Letter on behalf of Appellee, Dan Onorato joining in Response to Emergency Motion for Injunction pending Appeal filed by Appellee, Mary Conturo.
5. Letter on behalf of Appellee, Luke Ravenstahl joining in response to Emergency Motion for Injunction pending Appeal filed by Mary Conturo.
6. Letter filed by Appellee, Rob Stephany joining in response to Emergency Motion for Injunction pending Appeal filed by Appellee, Mary Conturo.
7. Response in Opposition filed by Appellee, Mary Conturo to Motion for Injunction pending Appeal, including a request for summary affirmance.

8. Response in Opposition filed by Appellees, Ray LaHood, Victor Mendez and Renee Sigel to Motion for Injunction Relief and Request for Expedited Consideration.
9. Reply filed by the Appellant to Responses to Motion for Injunction pending Appeal.

Respectfully,  
Clerk/TRG

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ORDER

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The foregoing Motion to Expedite is GRANTED. Appellant's Emergency Motion for an Injunction Pending Appeal is hereby DENIED substantially for the reasons stated in the District Court's opinion. Specifically, we agree with the District Court's conclusion that Appellant is unable to meet the standards of Federal Rule of Appellate Procedure 8(a) and that Appellant has failed to show that it is likely to succeed on the merits. We note that it appears that the District Court correctly dismissed Appellant's action for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure. The request for summary affirmance in Appellee Mary Conturo's Response in Opposition is DENIED without prejudice to renewal in a properly filed motion for summary action.

By the Court,

/s/ D. Brooks Smith  
Circuit Judge

Dated: September 23, 2011

trg/cc: Andrea C. Ferster, Esq.  
Samuel W. Braver, Esq.  
Shawn N. Gallagher, Esq.  
William Bresnahan, Esq.  
David L. Nixon, Esq.  
Michael E. Kennedy, Esq.  
Craig E. Maravich, Esq.  
Michael H. Wojcik, Esq.  
Robert L. Eberhardt, Esq.  
Rebecca R. Haywood, Esq.